

**RESOLUTION NO. \_\_\_\_\_, SERIES 2008**

**A RESOLUTION APPROVING THE APPLICATION OF PHENIX LOUISVILLE, LP FOR INDUSTRIAL BUILDING REVENUE BOND FINANCING OF AN INDUSTRIAL BUILDING PROJECT; UNDERTAKING THE ISSUANCE OF INDUSTRIAL BUILDING REVENUE BONDS TO FINANCE THE PROJECT AND TAKING OTHER PRELIMINARY ACTION (As Amended).**

**Sponsored By:** Councilman George Unseld, District 6

**WHEREAS**, Louisville/Jefferson County Metro Government (“Metro Government”) is a consolidated local government and political subdivision of the Commonwealth of Kentucky (the "Commonwealth") and as such is authorized by the Industrial Buildings for Cities and Counties Act, as amended, Sections 103.200 to 103.285 of the Kentucky Revised Statutes (the "Act"), to issue industrial building revenue bonds for the purpose of defraying the cost of any "industrial building" (as defined in the Act), including specifically land, buildings, improvements, equipment, machinery, and other facilities suitable for any activity, including new construction, designed for revitalization or redevelopment of downtown business districts as designated by Metro Government, subject to the review and approval of the State Local Debt Officer pursuant to KRS 103.2101(1), in order to accomplish the public purposes of promoting the economic development of the Commonwealth, relieving conditions of unemployment, and encouraging the increase of industry therein, provided that such bonds are payable solely from the revenues derived from the industrial building and do not constitute an indebtedness of Metro Government within the meaning of the Constitution and laws of the Commonwealth; and

**WHEREAS**, Phenix Louisville, LP (the “Company”), a Georgia limited partnership authorized to do business in the Commonwealth, has applied to Metro Government for (i) the issuance pursuant to the Act of industrial building revenue bonds of Metro Government in a

principal amount not to exceed \$32,500,000 (the “Bonds”) to defray the cost of acquiring a tract of 8.07 acres at 1547 South 7<sup>th</sup> Street, Louisville, Kentucky and the construction, furnishing, and equipping thereon of a 192-unit residential rental apartment community and the conversion of the existing landmark building on the site (the former American Standard Building) for use as office space on the first floor and a 600-space parking garage on the upper four floors to serve the residential and office tenants (the land, buildings, improvements, furniture, fixtures, and equipment comprising such project being hereinafter collectively referred to as the “Project”) and (ii) the execution of a lease (the “Lease”) by and between Metro Government, as lessor, and the Company, as lessee, pursuant to which the Company will make rental payments sufficient to pay the principal of, premium, if any, and interest on the Bonds as the same become due and any other costs of Metro Government incurred in connection with the Bonds and the Project; and

**WHEREAS,** the Metro Government designates that the boundaries of the “downtown business district” for purposes of KRS 103.200(n) shall be the area bounded by the Urban Services Taxing District.~~Louisville Metro Code of Ordinances § 161.21 provides that the term “downtown” shall not be considered in the traditional context of a Central Business District of one square mile bounded by the Ohio River, York Street, the North South Expressway and Roy Wilkins Boulevard, but shall rather consist of this intensively developed area plus the contiguous surrounding and inter-related neighborhoods insofar as important physical and functional relationships exist, and that the Louisville Downtown Development Plan shall include those elements of surrounding neighborhoods which must work in concert with the intensively developed central area.~~

**BE IT RESOLVED BY THE LEGISLATIVE COUNCIL OF LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE “COUNCIL”) AS FOLLOWS:**

**SECTION 1.** The Council hereby finds and determines that the acquisition, construction, and installation of the Project (a) constitutes an activity, including new construction, designed for revitalization or redevelopment of a downtown business district, within the meaning of the KRS 103.200(n), ~~term “downtown” as defined in Louisville Metro Code of Ordinances § 161.21,~~ and is hereby designated as such by Metro Government and (b) will tend to accomplish the public purposes of the Act by promoting the economic development of the Commonwealth, relieving conditions of unemployment, and encouraging the increase of industry therein.

**SECTION 2.** The term “downtown business district” as used in KRS 103.200(n) is hereby designated as the Urban Services Taxing District designated pursuant to KRS 67C.145 and 67C.147, and Metro ordinances enacted implementing of KRS 67C.145 and 67C.147.

**SECTION 2 3.** Metro Government hereby undertakes to issue the Bonds in a principal amount not to exceed \$32,500,000 and bearing interest at a rate not to exceed 10% per annum for the purpose of defraying the costs of the acquisition, construction, and installation of the Project for lease to the Company pursuant to the Lease to be executed by and between Metro Government, as lessor, and the Company, as lessee. The issuance of the Bonds shall be conditioned upon the negotiation of terms of the Bonds and the Lease which are in conformity with the Act and acceptable to Metro Government, the Company, and the purchaser of the Bonds.

**SECTION 3 4.** As a further condition to the issuance of the Bonds, the Company, the Revenue Department of the Commonwealth, and the Jefferson County School District (the “School District”) shall enter into an agreement (a payment in lieu of tax, or PILOT, agreement) pursuant

to which the Company shall make payments to the Commonwealth and the School District in amounts equal to and at the same times as the *ad valorem* taxes that would otherwise be due to the Commonwealth and the School District with respect to the Project.

**SECTION 4 5.** Metro Government shall submit an application to the State Local Debt Officer for review and approval of the Project pursuant to KRS 103.210(1).

**SECTION 5 6.** Metro Government assumes no responsibility for the design, acquisition, construction, installation, or operation of the Project, all of which shall be the responsibility only of the Company.

**SECTION 6 7.** The Bonds shall not be a general obligation of Metro Government, a charge against its general credit or taxing power, nor an indebtedness of Metro Government within the meaning of the Constitution and laws of the Commonwealth, but shall be payable solely from the rental payments to be made by the Company pursuant to the Lease and any collateral security for the Bonds, which may include a mortgage on the Project.

**SECTION 7 8.** This Resolution shall take effect upon its passage and adoption.

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Kathy Herron  
Metro Council Clerk

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Jim King  
President of the Metro Council

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Jerry E. Abramson  
Mayor

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Approval Date

**APPROVED AS TO FORM AND LEGALITY:**

Irv Maze  
Jefferson County Attorney

By: \_\_\_\_\_  
William P. O'Brien  
Assistant County Attorney

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